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## Ramapriya a/p Naranan v Thanasilan a/l Manoharen

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HIGH COURT (KUALA LUMPUR) — SUIT NO WA-24F-90–04 OF 2019
FAIZAH JAMALUDIN J
26 AUGUST 2019

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*Family Law — Family Court — Interim orders — Pending filing of divorce petition Family Court power to issue interim orders to address guardianship, custody, care and control of children of marriage, visitation rights and payment of maintenance*

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Pending the disposal of a divorce petition which she proposed to file, the plaintiff-wife sought against her defendant-husband an interim order for: (a) sole guardianship, custody, care and control of their infant child; (b) an order that the defendant pay a reasonable monthly sum to maintain the child; and (c) an injunction prohibiting the defendant or his agents/servants from coming to her home or workplace and from physically assaulting her or interfering in any way with her affairs or the affairs of the child. The plaintiff contended that about two years after their marriage, she left the defendant on account of his alleged physical and emotional abuse of her and went, first, to live with her own family and thereafter moved into a condominium with the child. The plaintiff alleged that shortly after she moved into the condominium, the defendant came there and took the child away from her and that although she had reported the incident to the police, she had not seen her child since. The defendant, although conceding that the child needed his mother's love, objected to the plaintiff's application because he feared the plaintiff would totally deny him of access to the child.

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**Held**, granting the following interim orders pending the filing of a divorce petition by either party: (a) joint guardianship of the child to both parents; (b) sole custody, care and control of the child to the plaintiff; (c) the defendant to have access to the child from 10am–6pm twice a week on weekdays without right to overnight access; and (d) the defendant to pay RM500 per month towards the child's maintenance:

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(1) The plaintiff's application for injunction and a restraining order against the defendant was dismissed because he denied the allegations of violence and physical and emotional abuse. In the absence of oral evidence or cross-examination at this interim stage, those allegations were in dispute and the court could not grant an injunction or restraining order on the basis of disputed allegations (see paras 27 & 30).

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(2) Section 88(3) of the Law Reform (Marriage and Divorce) Act 1976 contained the rebuttable presumption that it was for the good of the child below the age of seven years to be with his/her mother. That presumption was not rebutted by the defendant, who in fact submitted that the child needed his mother's love. Absent any evidence to show that the plaintiff was an unfit mother or that it would not be good for the child to be with her, the court, upon considering all the facts of the case, the wishes of both parents, the child's age and the s 88(3) presumption, was of the opinion that it was in the best interests and welfare of the child that he be placed in the sole custody, care and control of the plaintiff with reasonable access to the defendant (see paras 17 & 21–22).

(3) In determining who should have custody of the child, the court did not give paramount importance to the defendant's belief that he would be denied of access to the child if custody was given to the plaintiff. The foremost consideration was the child's welfare as stated in the Guardianship of Infants Act 1961 ('the GIA'). A parent's desire to have custody was a subordinate consideration which could only materialise if it coincided with the welfare of the child. If the plaintiff did indeed defy the court order and deny the defendant of access to the child, he had the right to enforce this order and apply to commence contempt proceedings against the plaintiff (see paras 19–20 & 25).

(4) Joint guardianship of the child was granted to both parties in keeping with s 5 of the GIA but the defendant was denied of overnight access to the child in view of the child's tender age of two years. As the defendant had a statutory duty under s 92 of the Law Reform (Marriage and Divorce) Act 1976 to maintain the child, the court, after considering all necessary matters, ordered that he pay RM500 per month towards the child's maintenance for the interim period (see paras 23–24 & 26).

**[Bahasa Malaysia summary**

Semasa menunggu selesai petisyen penceraian yang telah dicadangkan untuk difailkan oleh isteri yang merupakan seorang plaintif, plaintif telah memohon untuk mendapatkan perintah interim terhadap suaminya, yang merupakan defendan untuk: (a) hak penjagaan mutlak, penjagaan, perlindungan dan pengawalan terhadap anaknya yang masih bayi; (b) perintah untuk defendan membayar sejumlah wang bulanan yang munasabah untuk menyara anaknya; dan (c) injunksi untuk tidak membenarkan defendan atau wakilnya/orang suruhan untuk datang ke rumah atau ke tempat kerja plaintif dan daripada mencederakan secara fizikal atau mengganggu urusan plaintif atau urusan anaknya. Plaintif berhujah bahawa selepas dua tahun berkahwin, dia meninggalkan defendan kerana dicederakan secara fizikal dan emosi dan telah tinggal bersama keluarganya dan kemudiannya berpindah ke sebuah kondominium bersama anaknya. Plaintif juga mendakwa tidak lama setelah berpindah ke kondominium, defendan telah datang dan mengambil anaknya

daripada plaintif dan walaupun telah membuat laporan polis, plaintif tidak dapat berjumpa dengan anaknya sejak itu. Defendan telah berhujah, walaupun mengaku bahawa anaknya memerlukan kasih sayang seorang ibu, menolak permohonan plaintif kerana dia bimbang plaintif akan tidak membenarkan langsung untuk berjumpa anaknya.

**Diputuskan**, membenarkan perintah interim tersebut semasa menunggu pemfailkan petisyen penceraian oleh mana-mana pihak: (a) hak penjagaan bersama anak diberikan kepada kedua ibu bapa; (b) penjagaan mutlak, penjagaan dan pengawalan anak kepada plaintif; (c) defendan akan dibenarkan untuk berjumpa anak dari 10 pagi ke 6 petang dua kali seminggu pada hari bekerja tanpa hak untuk berjumpa semalaman; (d) defendan perlu membayar RM500 sebulan untuk keperluan anak:

(1) Permohonan plaintif untuk injunksi dan perintah penyekatan terhadap defendan ditolak kerana defendan menolak pendakwaan keganasan dan melakukan kecederaan fizikal dan emosi. Disebabkan ketiadaan bukti oral atau soal balas ketika proses interim ini, dakwaan-dakwaan tersebut boleh dipertikaikan dan mahkamah tidak boleh membenarkan injunksi atau perintah penyekatan berdasarkan pendakwaan yang dipertikaikan (lihat perenggan 27 & 30).

(2) Seksyen 88(3) Akta Membaharui Undang-Undang (Perkahwinan dan Perceraian) 1976 mengandungi anggapan yang boleh dipatahkan kerana ia adalah untuk kebaikan anak di bawah umur tujuh tahun untuk bersama ibunya. Anggapan ini yang tidak dipatahkan oleh defendan yang bersetuju bahawa anaknya memerlukan kasih sayang ibunya. Tanpa bukti yang menunjukkan plaintif seorang ibu yang tidak layak atau tidak baik untuk anaknnya tinggal bersamanya, mahkamah telah, setelah menimbangkan kesemua fakta-fakta kes, kehendak kedua ibu bapa, umur anak dan anggapan di bawah s 88, berpendapat bahawa ia adalah terbaik untuk kepentingan dan kebajikan anak tersebut untuk diberikan hak penjagaan mutlak, penjagaan dan pengawalan anak kepada plaintif dengan hak untuk berjumpa yang munasabah kepada defendan (lihat perenggan 17 & 21–22)

(3) Dalam menentukan siapa yang berhak untuk penjagaan anak, mahkamah tidak menekankan terhadap kepercayaan defendan yang menyatakan dia tidak akan diberikan peluang berjumpa dan bersama anaknya sekiranya hak penjagaan telah diberikan kepada plaintif. Penekanan penting diberikan terhadap kebajikan anak seperti yang tercatat di dalam Akta Penjagaan Budak 1961 (Akta 351) ('APB'). Keinginan ibu atau bapa untuk mendapatkan hak penjagaan adalah pertimbangan yang tidak begitu penting yang boleh dilaksanakan sekiranya ia selari dengan kebajikan anak. Sekiranya plaintif masih tidak menuruti perintah mahkamah dan tidak membenarkan hak defendan

untuk berjumpa anankya, maka defendan mempunyai hak untuk menguatkuasakan arahan ini dan memohon untuk memulakan prosiding penghinaan mahkamah terhadap plaintif (lihat perenggan 19–20 & 25).

(4) Hak penjagaan anak bersama telah diberikan kepada kedua pihak di dalam menuruti s 5 GIA namun defendan tidak dibenarkan untuk perjumpaan semalaman atas alasan anaknya masih belum mencapai dua tahun. Disebabkan defendan mempunyai duti statutori di bawah s 92 Akta Membaharui Undang-Undang (Perkahwinan dan Perceraian) 1976 untuk menyara anak, mahkamah telah, setelah menimbangkan segala perkara, memerintahkan untuk defendan membayar RM500 sebulan terhadap penyaraan anak semasa tempoh interim (lihak perenggan 23–24 & 26).]

**Cases referred to**

*Diana Clarice Chan Chiing Hwa v Tiong Chiong Hoo* [2002] 2 MLJ 97, CA (refd)
*J v C* [1970] AC 668 (refd)
*K (Minors), Re* [1977] Fam 179 (refd)
*Ko (an infant), Re* [1990] 1 MLJ 494, HC (refd)
*Mahabir Prasad v Mahabir Prasad* [1982] 1 MLJ 189, FC (refd)
*S (BD) v S (DJ)* [1977] Fam 109 (refd)
*Tay Book Choon v Tahansan Sdn Bhd* [1987] 1 MLJ 433, PC (refd)

**Legislation referred to**

Guardianship of Infants Act 1961 ss 5, 5(1), s 5(2), 11
Guardianship of Minors Act 1971 s 1
Law Reform (Marriage and Divorce) Act 1976 ss 88, 88(2), 88(3), 92
Rules of Court 2012

*Kirubagaran Baskaran (Vijaya Letchumi Muniandy with him) (Zuraida Rajes Vijayan) for the plaintiff.*
*Qeemnoor Zahreen Zazanee bt Muhamad Noh (Nashir, Johal & Co) for the defendant.*

**Faizah Jamaludin J:**

INTRODUCTION

**[1]** This is an application ('encl 1') by the plaintiff wife for an interim order pending the filing of a petition for divorce for:

(a) sole guardianship, custody care and control of the infant child, Devadharshan a/l Thanasilan (dob: 6 April 2017) ('the child') until the disposal of the petition for divorce that will be filed by the plaintiff in the future;

(b) an order that the defendant husband pays maintenance that this court finds fit and reasonable (*sesuai dan munasabah*) for the child; and

(c) except for supervised access which this court thinks fit, an order of injunction prohibiting the defendant personally and/or through his workers and/or agents and/or any person who is acting on his instructions from attacking, assaulting, *meyengkel* or interfere in the plaintiff and the child's affairs and/or from entering and/or standing within 100 meter from the plaintiff's residence at A-18–01, Residensi Kiara Jalil 2, Jalan Jalil Perwira 1, Off Klang Lama, 58200 Kuala Lumpur and the plaintiff's workplace at Wisma Standard Chartered, Jalan Teknologi Malaysia, Taman Teknologi, 57000 Kuala Lumpur until the disposal of the petition for divorce that will be filed by the plaintiff in the future.

**[2]** At the conclusion of the hearing of encl 1, this court granted the following interim orders pending the filing of a petition for divorce by either party:

(a) joint guardianship of the child to both the plaintiff and the defendant;

(b) sole custody, care and control of the child to the plaintiff;

(c) the defendant shall have reasonable access to the child two days per week on weekdays from 10am–6pm subject to the defendant giving the plaintiff at least two days' notice via SMS and/or Whatsapp message;

(d) the defendant shall not to have any overnight access to the child; and

(e) the defendant to pay maintenance for the child in the sum of RM500 per month, whereby the sum shall be banked into the plaintiff's bank account on/or before the seventh day of each month.

**[3]** This court dismissed the plaintiff's application for injunction and restraining order against the defendant.

**[4]** Costs was awarded to the plaintiff. The defendant was ordered to pay the plaintiff costs in the sum of RM2,000 within 30 days from the date of the order.

**[5]** This judgment contains the full grounds of my decision.

FACTS

**[6]** The plaintiff and the defendant married on 28 May 2016. The child of the marriage was born on 6 April 2017. After the marriage, both the plaintiff and defendant lived with the defendant's parents.

**[7]** The plaintiff left the defendant's parents' home with the child on 27 January 2019 and went to live with her family in Seremban. She then moved to a condominium Bukit Jalil with the child. She averred that she left the defendant's parents' home as a result of the defendant's physical and emotional abuse on her, which allegation the defendant denied in his affidavit in reply.

**[8]** On 1 March 2019 at 6.45pm, whilst the plaintiff and the child were in condominium's lobby, the defendant snatched the child from the plaintiff and ran away with him. The plaintiff reported the incident to the police at 7.33pm that same day. The defendant has not returned the child to the plaintiff since.

THE LAW

**[9]** Section 5(1) of the Guardianship of Infants Act 1961 (Revised 1988) (Act 351) ('the GIA') stipulates that in relation to the custody or upbringing of an infant, the rights and authority of the mother and father of the infant is equal. Under s 5(2) of the GIA 1961, the mother of an infant has the same powers as the infant's father in applying to the court in respect of any matter affecting the infant.

**[10]** Section 11 of the GIA states that the court or a judge in exercising the powers conferred by the GIA 1961 must have regards 'primarily to the welfare of the infant and shall, where the infant has a parent or parents, consider the wishes of such parent or both of them, as the case may be'.

**[11]** Section 88 of the Law Reform (Marriage and Divorce) Act 1976 (Act 164) ('the LRA 1976') empowers this court to make an order to place a child in the custody of his father or his mother. In deciding in whose custody to place a child, this court's paramount consideration is the welfare of the child. Furthermore, there is a rebuttable presumption in s 88(3) that it is good for a child below seven years of age to be with his mother. Section 88 reads as follows:

> 88 Power for court to make order for custody
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> (1) *The court may at any time by order place a child in the custody of his or her father or his or her mother* or, where there are exceptional circumstances making it undesirable that the child be entrusted to either parent, of any other relative of the child or of any association the objects of which include child welfare or to any other suitable person.

(2) *In deciding in whose custody a child should be placed the paramount consideration shall be the welfare of the child* and *subject to this the court shall have regard—*

(a) *to the wishes of the parents of the child*; and

(b) to the wishes of the child, where he or she is of an age to express an independent opinion.

(3) *There shall be a rebuttable presumption that it is for the good of a child below the age of seven years to be with his or her mother* but in deciding whether that presumption applies to the facts of any particular case, the court shall have regard to the undesirability of disturbing the life of a child by changes of custody.

...

(Emphasis added.)

**[12]** Edgar Joseph Jr J (as he then was) in deciding the question as to whose custody to place the child of the marriage in *Re Ko (an infant)* [1990] 1 MLJ 494 said as follows:

I must now confront the question of critical substance which arises for decision upon this application which I have referred to in the opening paragraph of this judgment. In my approach to this application, I have kept in the forefront of my mind, the crucial words of s 11 of the Guardianship of Infants Act 1961:

> The court shall have regard primarily to the welfare of the infant and shall, where the infant has a parent or parents, consider the wishes of such parent or both of them, as the case may be.

Although the equivalent provision in the English statute, being s 1 of the Guardianship of Minors Act 1971, states, 'the court shall regard the welfare of the minor as the first and paramount consideration', it is clear that the difference in wording is without distinction, and English authorities, explaining their effect, have been consistently relied upon by our courts. (see, for example, the Federal Court decision in *Mahabir Prasad v Mahabir Prasad* [1982] 1 MLJ 189 at p 193 per Raja Azlan Shah CJ (as he then was)).

Accordingly, I have derived much assistance from the following passage in the judgment of Lord MacDermott in the House of Lords in *J v C* [1970] AC 668, explaining the words of the English provision aforesaid at p 710:

> It seems to me that they must mean more than the child's welfare is to be treated as the top item in a list of items relevant to the matter in question. *I think that they connote a process whereby, when all the relevant facts, relationships, claims and wishes of parents, risks, choices, and other circumstances are taken into account and weighed, the course to be followed is that which is most in the interest of the child's welfare as that term has now to be understood.* That is the first consideration because it is of the first importance and the paramount consideration because it rules on or determines the course to be followed.

(Emphasis added.)

**[13]** The above quoted phrase from the House of Lord's judgment in *J v C* was cited with approval by the Federal Court in *Mahabir Prasad v Mahabir Prasad* [1982] 1 MLJ 189. Furthermore, Stamp LJ in the English *Re K (Minors)* [1977] Fam 179 advised that the said passage in *J v C* 'should be in the mind of every judge who tries an infant case'. And in *S (BD) v S (DJ)* [1977] Fam 109, Sir John Pennycuick said that the said passage 'cannot be repeated too often'.

**[14]** On the expression 'welfare of the child', Edgar Joseph Jr J in *Re Ko (an infant)* held as follows:

> The question, what is meant by the expression 'welfare of the child' is answered for me by Lindley LJ in the oft-quoted case of *Re McGrath* [1893] 1 Ch 143 at p 148, thus:
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> > But the welfare of the child is not to be measured by money only, nor by physical comfort only. The word welfare must be taken in its widest sense. The moral and religious welfare of the child must be considered as well as its physical well-being. Nor can the ties of affection be disregarded.

**[15]** Raja Azlan Shah CJ (Malaya) (as he then was) in delivering the judgment of the Federal Court in *Mahabir Prasad v Mahabir Prasad* held that:

> In short the learned judge has given the overriding consideration of the welfare of the children uppermost in his mind. That, we think, is the correct approach. *We would state categorically that that must be first and paramount consideration and other considerations must be subordinate. The mere desire of a parent to have his children must be subordinate to the consideration of the welfare of the children, and can be effective only if it coincides with their welfare*. Consequently, it cannot be right to speak of the pre-eminent position of the parents alone, or their exclusive right to the custody of the children, when their future is being considered by the court.
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> (Emphasis added.)

ANALYSIS

**[16]** This is an application for interim custody, care and control of the child by the plaintiff wife, pending the filing of a petition of divorce by either party.

**[17]** The child at the time of the hearing of this application was two years old. There is a rebuttable presumption under s 88(3) of the LRA 1976 that is it for the good of the child below the age of seven years to be with his mother. The defendant has not provided any evidence to rebut the presumption that it will not be for the good of the child to be with the plaintiff, who is his mother. In fact, the defendant submits that he believes that the child needs the love of his mother.

**[18]** The defendant is objecting to this application, not because it is not in the welfare of the child to be with the plaintiff but because he believes that the plaintiff will prevent him from any access to the child. He said *defendan membantah permohonan ini kerana defendan percaya bahawa segala akses terhadap anak mereka akan dihalang sama sekali dan defendant tidak dibenarkan sebarang akses*. The defendant says that he cannot bear to go through the days where he will suffer because the child is hidden by the plaintiff. He says *defendan juga percaya anak Defendan memerlukan kasih saying ibunya tetapi defendan tidak sanggup untuk melalui hari-hari di mana defendan menderita anak mereka disembunyikan oleh plaintif.*

**[19]** The GIA 1961 stipulates and as held in the cases cited above, that in deciding on issues of custody, the overriding consideration for this court is the welfare of the child. The welfare of the child's father or mother is not the overriding consideration for this court in deciding issues of custody. The desire of the parents can be carried out only if it coincides with the welfare of the child. As Raja Azlan Shah CJ (Malaya) (as he then was) said in *Mahabir Prasad v Mahabir Prasad* 'We would state categorically that that must be first and paramount consideration and other considerations must be subordinate. The mere desire of a parent to have his children must be subordinate to the consideration of the welfare of the children, and can be effective only if it coincides with their welfare'.

**[20]** Accordingly, the defendant's belief that if custody of the child is given to the plaintiff, she will him deny him access to the child, is not factor of paramount importance for this court in determining who should have custody of the child. The foremost consideration for this court is the welfare of the child. This court must also take into account the statutory presumption in s 88(3) of the LRA 1976, that it is good for a child under the age of seven years to be with his mother.

**[21]** The defendant did not produce any evidence before this court that the plaintiff is an unfit mother or that it would not be good for the child to be with his mother. On the contrary, as stated above, the defendant believes that the child needs the love of his mother.

**[22]** Accordingly, upon considering the facts of the case, the wishes of both of the parents, the age of the child, the presumption in s 88(3) of the LRA 1976, I am of the opinion that it is in the welfare and best interest of the child that he be placed in the sole custody of the plaintiff and that she has sole care and control of him.

**[23]** The defendant is granted reasonable access to the child for two days each week on weekdays from 10am–6pm. As the defendant himself contends,

as a driver for ride-hailing company, Grab, his working time is flexible and would be able to accommodate the twice-weekly access of this child. Because of the child's tender age of two years, I am of the view that it will not be in the welfare of the child to be away from his mother overnight. Therefore, this court has decided not to grant the defendant any overnight access of the child during this interim period. The issue of overnight access can be revisited during the hearing of the petition for divorce.

**[24]** Section 5 of the GIA 1961 states that the father and mother of an infant child has equal rights and authority over a child. Therefore, I hereby grant both the plaintiff and the defendant joint guardianship of the child.

**[25]** As for the defendant's worry that the plaintiff will not grant him any access to the child, if the plaintiff does indeed defy the order of this court and denies the defendant access to the child, the defendant has the right to enforce this order and under the Rules of Court 2012 to apply for leave to commence contempt proceedings against the plaintiff.

**[26]** The defendant as the father of this child has a statutory duty under s 92 of the LRA 1976 to maintain the child. After considering the means of the father and the needs of the child, I have ordered the defendant to pay the sum of RM500 per month for the child's maintenance. Whilst I recognise that the sum of RM500 per month is hardly sufficient to cover all the costs of providing for the child's accommodation, clothing, food and education, I have taken into consideration the fact that the defendant works as a driver for Grab and that the plaintiff is working and is in a position to supplement the balance of the necessary costs and expenses in providing for the child's needs, and have found that for purposes of this interim order the sum of RM500 per month is a 'fit and suitable sum'. At the hearing of the petition of divorce, the parties can adduce further evidence to show a more accurate financial position of the parties and the amount of child maintenance can then be adjusted accordingly.

**[27]** The plaintiff has prayed for an injunction and restraining order based on the defendant's alleged violence towards her and his physical and emotional abuse. All these allegations were denied by the defendant and in the absence of oral evidence or cross-examination at this interim stage, are accordingly, in dispute.

**[28]** In the Privy Council case of *Tay Book Choon v Tahansan Sdn Bhd* [1987] 1 MLJ 433, Lord Templeman held that a judge should decide the fate of a petition (in that case a winding-up petition) by considering undisputed facts, where he held:

> At the end of the day the judge must decide the petition on the evidence before him. If allegations are made in affidavits by the petitioner and those allegations are

credibly denied by the respondent's affidavits, then in the absence of oral evidence or cross-examination, the judge must ignore the disputed allegations. The judge must then decide the fate of the petition by consideration of the undisputed facts.

**[29]** This principle enunciated by Lord Templeman in *Tay Book Choon*, was applied by the Court of Appeal in custody proceedings in the case of *Diana Clarice Chan Chiing Hwa v Tiong Chiong Hoo* [2002] 2 MLJ 97. In that case, the court was also dealing with a wife's interim application for custody, where Siti Norma JCA (as she then was) when dealing with conflicting affidavit evidence said:

> Allegations and counter allegations of other forms of improper behavior made by one party against the other abound in the 13 affidavits filed in support or in opposition to the applications for custody. They are all aimed at showing either party to be the guilty party and therefore not the fit and proper parent to have the custody of the four children. *Needless to say the affidavit evidence alone, conflicting as they are, cannot form the basis of deciding the truth of the matters complained of in the absence of any cross examination of the makers of the affidavits.* However, above and beyond that, there is the paramount interest and welfare of the children to be considered and it is the omission on the part of the trial judge to consider this aspect of the law that compelled us to disturb and reverse his finding of indefinitely putting off the determination of the disputed custody matter until the hearing of the divorce petition between the parties.
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> *Faced with such conflicting affidavit evidence, what the trial judge should have done was to sieve through such evidence, consider only those that are undisputed or uncontroverted and balance these with the consideration of what would work towards the betterment and interests of the four children.* In this regard, he is reminded of the provisions of s 88(2) of the act and to act accordingly.
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> (Emphasis added.)

**[30]** Therefore, as the allegations of abuse have been disputed by the defendant, I have decided not to grant at this interim stage an injunction and restraining order against the defendant.

DECISION

**[31]** For this above reasons, this court hereby orders, pending the filing of the petition for divorce:

(a) joint guardianship of the child is granted to both the plaintiff and the defendant;

(b) sole custody, care and control of the child is granted to the plaintiff;

(c) the defendant shall have reasonable access to the child two days per week on weekdays from 10am–6pm subject to the defendant giving the plaintiff at least two days' notice via SMS and/or Whatsapp message;

A (d) the defendant shall not to have any overnight access to the child; and

(e) the defendant to pay maintenance for the child in the sum of RM500 per month, whereby the sum shall be banked into the plaintiff's bank account on/or before the seventh day of each month.

B **[32]** The plaintiff's application for injunction and restraining order against the defendant.

**[33]** Cost of RM2,000 is awarded against the defendant. He is to pay the C plaintiff the said cost within 30 days from the date of this order.

*Order accordingly.*

Reported by Ashok Kumar

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